

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

NEAL DAVIS,

Plaintiff,

v.

MARTIN MARIETTA MATERIALS,  
INC.,

Defendant.

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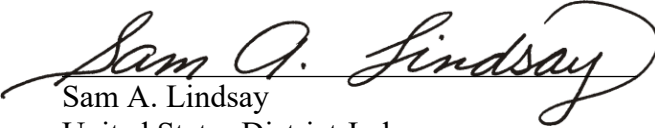
Civil Action No. **3:16-cv-01312-L**

**ORDER**

The court is reviewing Defendant Martin Marietta Materials, Inc.’s (“Defendant” or “MMM”) Motion for Summary Judgment (Doc. 29) in this case. One issue raised by MMM is that certain summary judgment evidence submitted by Plaintiff Neal Davis (“Plaintiff” or “Mr. Davis”) should be stricken or excluded because the disclosures were not timely made and Plaintiff never sought leave to add untimely witnesses. Although raised in the reply, the better practice is to file a motion so that the opposing party has an opportunity to respond.

Likewise, since the issue was raised for the first time in the reply, Plaintiff should have sought leave to file a sur-reply to this information. To ensure fairness, the court **directs** Plaintiff to respond to Defendant’s request to strike the information mentioned in “Defendant’s Reply in Support of Motion for Summary Judgment” (Doc. 35) by **5:00pm** on **February 11, 2021**. Plaintiff’s brief is **not to exceed five (5) pages**.

**It is so ordered** this 4th day of February, 2021.

  
Sam A. Lindsay  
United States District Judge